IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 40 OF 2003

Sou. Shakuntala Bajirao Alias Mahadeorao ..Petitioner

V/s

Bajirao Alias Mahadevrao Nivruti & Anr. ...Respondent.

Mr. P.D. Dalvi for the petitioner.

Mr.N.V. Bandivadekar for the respodnent No.1

Mr. P.S. Hingorani, A.P.P.for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 19TH SEPTEMBER, 2006.

P.C.

. Heard Mr. Dalvi appearing for the petitioner-wife and Mr. Bandivadekar for the respondent-husband.The wife in proceeding under section 127 of Cr.P.C. prayed that maintenance amount determined by the Court earlier be enhanced in light of the changed circumstances, prevailing conditions and increased prices.

2. That application was granted by the trial Court and sum of Rs. 700/- per month was determined as monthly maintenance which is to be paid by the first

respondent-husband from the date of the order passed by the trial Court. The order of the trial Court is dated 21st July, 2001.

3. The same was carried in revision and the learned Sessions Judge, Kolhapur on 18th September, 2002 allowed the revision application of the first respondent-husband in part. He reduced the quantum from Rs.700/- to Rs. 300/- per month.

4. Aggrieved by the interference of the revisional Court, the petitioner wife is before this Court invoking the jurisdiction under Article 227 of the Constitution of India.

5. The order under challenge is passed on 18th September, 2002. The revisional Court has reduced the amount of Rs. 400/- and brought it down to Rs. 300/- per month. It is indeed surprising that the revisioned Court despite noticing the fact that the law delays are responsible for the agony of the petitioner-wife, thought it fit to interfere and reduce the amount.

6. Therefore, I expressed a view, that the order

deserves to be set aside and the submission of Shri Dalvi then was that the trial Court's order be restored. In other words, the maintenance be enhanced to Rs. 700/- per month. However, Mr. Bandivadekar submits that the revisional Court was right in interfering because respondent No.1 has Agricultural lands holding of only 2 acres and he has to support his family consisting of his parents. In such circumstances, the amount is rightly reduced to Rs. 300/- per month.

7. After perusing the application and annexures thereto and considering the fact that the Writ Petition is pending for last 4 years, it would be appropriate, if the amount of maintenance is fixed at Rs. 400/- per month and which sum shall be paid by the first respodnent-husband from 1st October, 2002 till further orders of the Trial Court. Needless to state that this order does not prevent the petitioner-wife from moving the trial Court and seek such reliefs as are permissible in law including enhancing the quantum determined by this Court. All contentions of both sides in tht behalf are kept open.

8. At the request of Shri Bandivadekar time to pay

the arrears is granted and the first respondent shall pay the arrears within a period of 8 weeks from the date of receipt of copy of this order and also pay monthly maintenance of Rs. 400/- to the petitioner-wife.

. Petition is disposed of.

(S.C.DHARMADHIKARI, J.)